



**THE ATTORNEY GENERAL
OF TEXAS**

Gerald C. Mann

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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Hon. Chas. W. Castner, Chief
Eleemosynary Division
State Board of Control
Austin, Texas

Opinion No. 6-2220

Re: Necessity of advance approval
by the Attorney General of out-
of-state trips by superintendents
of eleemosynary institutions

Dear Sir:

In your letter of April 12, 1940, you state that on February 10, 1940, the State Board of Control approved a trip by Superintendent E. R. Wright of the Texas School for the Deaf to St. Louis, Missouri, to attend the conference of the National Forum on Deafness and Speech Pathology, and that the Comptroller's Department is not approving the expense account for this trip, on the ground that it does not appear that the Attorney General has approved this trip as being on state's business.

The provision as to the approval in advance of out-of-state trips by representatives of the state, as being on state's business, by this department, is contained in the departmental appropriation bill, in the general rider appended thereto. Your attention is directed to the fact that the eleemosynary appropriation bill, House Bill No. 256, contains the following rider:

"Traveling Expenses. None of these appropriations may be used for traveling outside of the State of Texas without the advance written consent of the State Board of Control, except in adjoining States in deporting non-resident inmates and return-escaped inmates to institutions. Otherwise, the State Comptroller shall apply the same rules to the approval and payment of traveling expenses of all employees except the superintendents of the eleemosynary institutions as he applies to such expenses of the State Departments. Superintendents' trips shall be as authorized by the Board of Control."

An examination of this provision of the eleemosynary appropriation bill reveals that the Legislature has specifically excepted trips by superintendents from the provision that the State Comptroller shall apply the same rules to the approval and payment of traveling expenses of all employees as he applies to such expenses of the state departments. It is likewise observed that it is specifically provided:

"Superintendents' trips shall be as authorized by the Board of Control."

You are therefore advised that by virtue of the provision of the eleemosynary bill above quoted, it is not necessary that advance opinion of the Attorney General, that such a trip is on state's business, be obtained in respect to out-of-state trips by superintendents of the eleemosynary institutions of this state. On the contrary, this act contemplates that the Board of Control, rather than the Attorney General, shall give its advance written consent to the making of such an out-of-state trip.

It is, of course, not the intention of this opinion to express the view that the Board of Control may authorize trips by superintendents of eleemosynary institutions, except where those trips are on state's business. We hold merely that the advance written approval of this department to the making of such a trip is not required, but that the advance written consent of the State Board of Control is required. If in this or any other situation of similar character the Comptroller should entertain serious doubts as to the purpose of the particular trip being for the transaction of state's business, he may secure an opinion thereon from this department, upon presentation of a request in the usual form. We do not understand that in this case the Comptroller has declined to approve the account for payment because he questioned whether state's business was involved on the trip, but because he doubted his authority to approve the account for payment in the absence of the approval of this department required for out-of-state trips made by employees of the state departments whose appropriations are contained in the departmental appropriation bill.

APPROVED APR 20, 1940
/s/ Grover Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

Yours very truly
ATTORNEY GENERAL OF TEXAS
By /s/ R. W. Fairchild
Richard W. Fairchild, Assistant

APPROVED: OPINION COMMITTEE
BY BWS CHAIRMAN

RWF:LW:wb